IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.232 OF 2006

Sangale T. Gopal ...Petitioner.

Versus

Nandlal S. Yadav & Ors. ...Respondents.

...

ALONGWITH

WRIT PETITION NO.233 OF 2006

Ansari A. Kudarat ...Petitioner

Versus

Nandlal S. Yadav & Ors. ...Respondents.

...

ALONGWITH

WRIT PETITION NO.237 OF 2006

Chohan R. Rajaram ..Petitioner.

Versus

Nandlal S. Yadav & Ors. ..Respondents.

...

ALONGWITH

WRIT PETITION NO.238 OF 2006

Indrajeet R. Yadav ...Petitioner.

Versus

Nandlal S. Yadav & Ors. ...Respondents.

...

Shri D'Souza with Smt.S.D.Sawant for the Petitioners.

Shri M.R.Yadav for Respondent Nos.2 & 3.

CORAM : S.C.DHARMADHIKARI,J.

DATE : 14th FEBRUARY, 2006.

P.C. :

1. Heard Shri D'souza - learned Counsel appearing for the petitioner. Admittedly, the petitioner herein is apprehending dispossession by the Court Receiver appointed at the instance of original defendants in Suit No.1782 of 1989. According to Shri D'souza, the first respondent who has instituted the Suit in the City Civil Court claims injunction restraining the defendants in the said Suit, viz., respondent Nos.2 to 4 herein, their agents and representatives from taking forcible possession of the suit premises which are described more particularly in Prayer Clause (a) of the plaint as well as Annexure "A" thereto. He submits that the present petitioner is on a portion of the land upon which the suit premises are situate, but, neither parties to the Suit can claim any right therein. Yet, by virtue of the fact that, in the Notice of Motion taken out by original defendant in the Suit, Court Receiver is appointed with direction to take possession of not only the suit premises but the entire land and such direction prejudices the petitioner. He fears dispossession from the premises which are in his use and occupation.

2. After hearing Shri D'souza and perusing the order under challenge with his assistance, in my view, since the proceedings in the aforesaid Suit resulting

in the orders and directions referred to above are at the instance of the original defendants, it would be appropriate for the petitioner to assert his right, title and interest in the property in his use and possession, by independent proceedings. Needless to state that such proceedings being instituted, it would be open for the petitioner to move for interlocutory reliefs therein and such application would be decided on its own merits and in accordance with law uninfluenced by the observations in the order under challenge.

(S.C.DHARMADHIKARI,J.)